

In re) Fair Hearing No. 11,569
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Appeal of)

The petitioner appeals a decision by the Department of Social Welfare reducing her Food Stamp coupons due to a decrease in her shelter allowance.

1. The petitioner and her child are Food Stamp recipients who moved to a new apartment on October 5, 1992. Prior to their move, the petitioner received \$83 in Food Stamps. After her move, the family was found eligible for only \$71.00 in Food Stamps.

2. The Department took the action to reduce the Food Stamps because it calculated her allowable shelter expenses in her prior apartment at \$49.00. Allowable shelter expenses in the new apartment were determined to be only \$7.35.

3. The petitioner disputes the shelter allowances calculated by the Department. In her prior apartment, the petitioner stated that she spent \$163.00 for rent which included heat but not electricity. Her average electric bill was \$27.53 per month. Her total expense for rent, heat and electricity was \$190.53 in her former apartment. (She did not present evidence as to her phone bill.) Her current apartment

has a rent of \$205 per month which includes both her heat and electricity. By the petitioner's reckoning, she now pays almost \$15.00 more for the same shelter and utilities.

4. The Department does not dispute the figures offered by the petitioner. However, because the petitioner did not previously have her electricity included in the rent, a standardized figure of \$109.00 (which included electric and phone) was used at that time to figure her total shelter expenses which were set at \$278.00 per month. Because all her utilities (except telephone) are now included in her rent, the Department uses her actual rent figure of \$205.00 plus a standardized figure for her phone of \$25.37 for a total shelter allowance of \$230.37.

5. The petitioner's income at the time this decision was made, was \$523 in ANFC and \$50 in child support.¹ Those figures were added together and subjected to a \$127 standard deduction resulting in a countable adjusted income of \$446.00. The amount of her shelter allowance, \$230.37, was compared with the adjusted income figure to determine how much of her shelter allowance exceeds fifty per cent of her income, or \$223.00. The difference between the two figures is an excess of \$7.37 in shelter over income. Therefore, that figure was further deducted from the \$446.00 to obtain the final countable income figure of \$438.63. The Department determined from its tables that a two person

household with an income of \$438.63 is entitled to \$71.00 in Food Stamps.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations at 273.9(d)(5) allow for the deduction of shelter costs which are in excess of fifty percent of a household's income up to an established limit.

That same regulation specifically includes utility payments for electricity in the definition of shelter expenses. The regulations furthermore specifically authorize the Department to use standardized utility allowances for persons who must pay utilities separately from rent. F.S.M.

§ 273.9(d)(6). Those allowances are adopted in the Procedures Manual at §§ 2590(A) and 2510(E).

There is nothing in the Department's calculations which suggests that the regulations were not followed in determining the petitioner's current Food Stamp amount. Indeed, if the petitioner has any grievance in this matter, it concerns the calculation of her Food Stamps in her prior apartment since her actual figures were not used but rather standardized figures. However, the evidence shows that those standardized figures worked to the petitioner's advantage since they assumed the petitioner had \$278.00 in shelter expenses when her actual expenditures were considerably less.

If any reformation of the petitioner's Food Stamp

calculations were made, it would undoubtedly result in a finding that she would have been eligible for fewer food stamps when she lived in her former apartment, not that she is entitled to more now. The petitioner benefited from the standardized system before and is entitled to retain the advantage of that benefit. However, she has made no valid argument that she is entitled to more Food Stamps now. Under the coupon allotment tables, a family with two persons and \$438.63 in income is eligible for only \$71.00 in Food Stamps. P. 2590D. As the Department's decision is in accord with its regulations, the Board must affirm the decision. 3 V.S.A. § 3091(d).

FOOTNOTES

¹The petitioner has since ceased to receive child support. The Department has readjusted her Food Stamps to reflect this loss of income since the appeal was filed.

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